The following clause may be included now in contracts which involve the handling of protected health information by MHS business associates and must be included in those that are modified or initiated after
April 21, 2005
■■

Security of Protected Health Information

(a) *Definitions.* As used in this clause:

Electronic Protected Health Information has the same meaning as the term "electronic protected health information" in 45 CFR 160.103.

Secretary means the Secretary of the Department of Health and Human Services or his/her designee.

Security Rule means the Security Standards for the Protection of Electronic Protected health Information at 45 CFR part 160 and part 164, subpart C.

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR 160.103, 164.103, and 164.304.

(b) The Contractor agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Government.

(c) The Contractor agrees to report to the Government any security incident of which it becomes aware.

(d) The Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Government, agrees to the same restrictions and conditions that apply through this Contract to the Contractor with respect to such information.

Termination

A breach by the Contractor of this clause, may subject the Contractor to termination under any applicable default or termination provision of this Contract.

Miscellaneous

(a) Regulatory References. A reference in this Clause to a section in the Security Rule means the section as in effect or as amended, and for which compliance is required.

(b) Interpretation. Any ambiguity in this Clause shall be resolved in favor of a meaning that permits the Government to comply with the Security Rule.